

STATEMENT OF SENATOR PETE V. DOMENICI
The Cerro Grande Fire Assistance Act
June 15, 2000

Mr. President, on May 4, 2000, the National Park Service started a forest fire, a so-called prescribed burn at Bandelier National Monument in New Mexico during the height of the fire season in the Southwest.

By May 5, 2000, it was a full fledged wild fire devouring everything in its path. As the hours turned to days and weeks, the fire became known as the Cerro Grande fire.

During the time this fire burned out of control, the country celebrated the 50th anniversary of Smokey the Bear's rescue from a raging forest fire in the Lincoln National Forest near Capitan, New Mexico.

For fifty years, Smokey the Bear has cautioned Americans to be careful with fire while in the forest. Apparently, no one told the Park Service.

Decision: Start a forest fire.

Basis: Miscalculation of the danger.

Result: Approximately 25,000 people evacuated. 405 families lost their homes. Two Indian Pueblos lost land, livelihood, and sacred sites.

Acres burned: 48,000 acres transformed from a lush forest into a charcoal garden covered with 12 inches of ash.

Cost thus far to the taxpayer: More than \$10 million just to fight the fire.

We now have a couple of official reports. The 40-page "The Cerro Grande Prescribed Burn, Investigation Report dated May 18, 2000" can be summarized as follows:

Too little planning. Too few followed procedures. Too little caution.
Too little experience. Too much dry underbrush. Too much wind.
Too much advice unheeded. Too late arrival of "Hotshot" experts.
Too bad.

It is more than too bad, and it calls into question the underlying policy of prescribed burns. But that is an issue for another day.

It is a catastrophe that this fire was started in the first place, no doubt about that.

It is a tragedy that the fire destroyed homes. No doubt about that.

It is a disaster that the fire disrupted businesses, and cost the state and local governments millions of dollars. No disagreement about that either.

Imagine the horror of seeing your home reduced to ashes.

Imagine the freakishness of owning a concrete staircase to nowhere and calling it “home”—the house burned to the ground, only the steps remain.

Imagine seeing your neighborhood reduced to a row of brick chimneys and concrete foundations.

Consider the irony of a home burned to the ground while the wooden tree house stands unoccupied in yard.

Imagine the task of sifting through the ashes for any unincinerated remnants of your life.

Think about the gawkers and the TV trucks driving through your neighborhood waiting to see if the first rains produce mudslides and/or floods.

Imagine your life if you were they.

You want to go back to work, to get the kids back into a routine, but your life is a series of back-to-back-meetings dealing with appraisers, contractors, insurance, FEMA, SBA, and Flood Insurance.

Everyone involved wishes that the fire could be unset, the match unlit, the decision unmade, but there is no way to undo the catastrophe.

The federal government can't undo the damage, but it can provide prompt compensation. Providing compensation is the objective of the legislation that

Senator Bingaman and I are introducing today. We have worked closely with the Administration, and I am pleased that they support this legislation.

I am pleased to introduce legislation that starts the process of rebuilding lives. It provides an expedited settlement process for the victims of the fire.

To accomplish the goal of compensating fire victims in the most efficient and fair way possible, this legislation establishes a compensation process through a separate Office of Cerro Grande Fire Claims at FEMA

It provides for full compensation for property losses and personal injuries sustained by the victims, including all individuals, regardless of their immigration status, small businesses, local governments, schools, Indian tribes and any other entities injured as a result of the fire.

Such compensation will include the replacement cost of homes, cars and any other property lost or damaged in the fire, as well as lost wages, business losses, insurance deductibles, emergency staffing expenses, debris removal and other clean-up costs and any other losses deemed appropriate by the Director of FEMA.

To make sure that this is an expedited procedure, within 45 days of enactment, FEMA must promulgate rules governing the claims process. After the rules are in place, FEMA must publish in newspapers and other places in New Mexico, an easy-to-understand description of the claims process in English and Spanish, so that everyone will know their rights and where and how to file a claim.

Once those rules are in place, victims will have two years to file their claims, and FEMA must pay those claims within 6 months of filing.

During the adjudication of each claim, FEMA is authorized to make interim payments to victims so that those with the greatest need will not be forced to wait a long time before receiving some form of compensation from the government.

This bill also will reimburse insurance companies for the costs they paid to help rebuild Los Alamos and the surrounding communities. Under this bill, insurance companies will be able to make subrogation claims against the government on behalf of themselves or their policy holders in same manner as any other victim of the fire.

I want the victims to know that this bill requires that they will be compensated before insurance companies.

The intent is to encourage insurance companies to settle with their policy holders and then come to the government for compensation. That way, victims can get on with their lives as soon as possible, and insurance companies can get reimbursed through the claims process without the need to proceed under the cumbersome Federal Tort Claims Act.

For victims whose insurance will not cover the complete replacement cost of their property loss or their personal injury, insurance companies should cover all that is required under their policies, and the government will make up the difference.

Mr. President, I think that in this bill, we have developed a process which is fair, comprehensive and efficient. Yet there will be some who believe, for whatever reason, that they are not receiving what they are entitled from the government.

For those individuals, this bill preserves their right to sue under the Tort Claims Act or to protest the final claims decision of FEMA. I hope that there will be few, if any, such lawsuits, but I believe we must maintain the rights of individuals to proceed to court if they are unhappy with their claims award.

I think we have taken an excellent first step in proposing this claims legislation. There is no way one bill can address every issue which might arise in every circumstance. Many of the details will be determined by the Fire Claims Office. I want my constituents to know that I will do all I can to monitor the process as it moves forward to ensure that New Mexicans are treated fairly and in accordance with the intent of this law.

All our citizens owe a tremendous gratitude to the workers at Los Alamos. We won the Cold War because of their contributions. Today we enjoy our freedom because of their dedication. We need their continued dedication to assure that those freedoms survive for our future generations. And they need our help to rebuild their lives and return to their vital missions.

I hope my colleagues will support the Cerro Grande Fire Assistance Act. I ask unanimous consent that a copy of the bill and a short summary be printed in the record following my remarks.

Thank you, Mr. President.

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